THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 24451 of 2006

Dated: 12.10.2007

Between:

The Deputy Chief Traffic Manager,
A.P.S.R.T.C., Visakhapatnam (Rural),
Visakhapatnam Dist.

..... PETITIONER

AND

The Depot Secretary,
APSRTC Staff and Workers Federation,
Regd.No.891, Narsipatnam Depot,
Visakhapatnam District, representing T. Paul, E.484116, Driver,
and another.

.....RESPONDENTS

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Writ Petition No. 24451 of 2006

Order:

Assailing the award dated 19.07.2004, passed by the Labour Court, Visakhapatnam, in I.D. No. 15 of 2003, setting aside the order passed by the Deputy Chief Traffic Manager, APSRTC, Visakhapatnam (Rural), placing the 1st respondent-workman in the minimum scale of driver for a period of two years with cumulative effect, besides treating the period of suspension as not on duty for the purpose of leave and increments, the petitioner-Corporation filed the present writ petition.

Learned Standing Counsel for the petitioner-Corporation mainly contends that the accident had occurred due to rash and negligent driving and lack of anticipation on the part of the 1st respondent-workman, and so he is responsible for the alleged accident. He further contends that though the disciplinary authority, based on the enquiry report submitted by the Enquiry Officer, removed the 1st respondent-workman from service, the appellate authority i.e., the Deputy Chief Traffic Manager, APSRTC, Visakhapatnam (Rural), after considering the entire material on record, modified the said punishment of removal and placed the 1st respondent-workman in the minimum scale of driver for a period of two years with cumulative effect, besides treating the period of suspension as not on duty for the purpose of leave and increments, but the Labour Court, without properly appreciating the said facts, erred in setting aside the punishment imposed by the Deputy Chief Traffic Manager, APSRTC, Visakhapatnam (Rural), hence, the impugned award is liable to be set aside.

Heard the learned Standing Counsel for the petitioner-Corporation and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

The 1st respondent-workman was charge sheeted alleging that the bus driven by him met with an accident on 01.09.1994, causing death of a pedestrian on the spot. Having not satisfied with the explanation submitted by the 1st respondent-workman, an enquiry was conducted and based on the enquiry report submitted by the Enquiry Officer, the Depot Manager, Visakhapatnam, by proceedings dated 19.03.1998, removed the 1st respondent-workman from service. Aggrieved by the said removal orders, the

1st respondent-workman preferred an appeal before the Deputy Chief Traffic Manager, APSRTC, Visakhapatnam (Rural), and the Deputy Chief Traffic Manager, after considering the entire material on record as well as the statements of the passengers, has given a clear finding that there is no negligence on the part of the

1st respondent-workman. However, he has imposed a punishment placing the 1st respondent-workman in the minimum scale of driver for a period of two years with cumulative effect, besides treating the period of suspension as not on duty, for the purpose of leave and increments.

Thereafter, the Government made a reference to the Labour Court under Section 10 (1) (c) of the Industrial Disputes Act, 1947, for settling the dispute between the petitioner-Corporation and the 1st respondent-workman and to answer the question as to whether the action of the Deputy Chief Traffic Manager, APSRTC, Visakhapatnam (Rural), placing the

1st respondent-workman in the minimum scale of driver for a period of two years with cumulative effect, besides treating the period of suspension as not on duty for the purpose of leave and increments, is justified, and the said reference was numbered as I.D. No. 15 of 2003. The Labour Court, after re-appreciating the entire material on record, especially the proceedings Ex.M28 of the Deputy Chief Traffic Manager, held that when the Deputy Chief Traffic Manager has given a clear finding in his proceedings Ex.M28 that there is no negligence on the part of the 1st respondent-workman, he ought not to have imposed any punishment against the 1st respondent-workman and that the action of the Deputy Chief Traffic Manager in imposing the present punishment, without there being any material against the 1st respondent-workman, is not justified. Holding so, the Labour Court, set aside the said punishment imposed by the Deputy Chief Traffic Manager, and no exception can be taken thereto. That apart, except reiterating the arguments advanced before the Labour Court, the learned Standing Counsel for the petitioner-Corporation has not raised any new points before this Court.

The award of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 12.10.2007
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